GUIDELINES FOR ALL PROCEEDINGS
CONDUCTED BEFORE JUDGE JEFFIE J. MASSEY

All proceedings before Judge Massey shall be conducted in accordance with these guidelines. These guidelines are designed to facilitate orderly, courteous, and efficient proceedings.

HOURS AND BREAKS DURING PROCEEDINGS

Proceedings will normally begin at 10:00 a.m. and end at 4:30 p.m. One break will be taken during the morning session and one break will be taken during the afternoon session. Each break will last ten minutes unless the participants and the Judge agree that additional time is necessary. The exact time of these breaks will be determined for each proceeding after conferring with the participants. The lunch break will, under normal circumstances, begin at or around 12:30 p.m. and last for one hour.

All persons are expected to be prompt and are asked to keep this schedule in mind when planning their personal obligations.

For proceedings where witness testimony will not be taken (for example, oral arguments), the start time could vary, depending on the respective schedules of the Judge and the participants. To the extent deemed practicable and reasonable by the Judge, all such proceedings will be scheduled by consent, within the guidelines of this document.

COMMUNICATIONS WITH THE JUDGE

Any off-the-record oral communications the participants feel compelled to initiate with the Judge are subject to disclosure pursuant to Rule 2201. If a party or participant has questions concerning a non-substantive matter, those questions should be directed to the Judge's law clerk.

FILINGS WITH THE SECRETARY

The participants should keep in mind that when pleadings, etc., are filed with the Office of the Secretary of the Commission, it takes two to three days for a file-marked copy of that filing to reach the Judge, through normal intra-office delivery methods.

The parties should never assume that the Judge is aware of a filing as soon as it is filed. The Judge invites and, in fact, *encourages* all participants to serve upon her law clerk and legal technician, via e-mail, any pleading that is filed with the Secretary's office. This will most often expedite the Judge's ability to respond to said pleadings.

DISCOVERY

The Judge expects the parties to make serious and good faith efforts to complete discovery in a timely fashion. The Judge further expects the parties to attempt to resolve discovery disputes that occur before seeking intervention by the Judge through the filing of Motions to Compel, Motions to Strike, etc.

The first substantive paragraph of any Motion covering any issue associated with discovery shall summarize what efforts have been made to resolve the dispute by the parties.

The Judge will endeavor to set such Motions for oral argument within seven business days of the filing of said Motions. Unless exceptional circumstances exist, the parties can expect a ruling from the bench.

Formal responses to Motions concerning discovery disputes are not required, but are welcomed, so long as they are in the hands of the Judge's law clerk at least forty-eight hours before the time scheduled for oral arguments. (This does not sanction the filing of documents on non-business days.)

Unless the participants are specifically notified to the contrary by the Judge, copies of discovery requests are NOT to be served on the Judge

contemporaneously with their service on other participants.

JOINT STATEMENT OF CONTESTED FACTUAL AND LEGAL ISSUES

The participants shall agree upon and submit a Joint Statement of Factual Issues and Joint Statement of Legal Issues prior to the commencement of the hearing, in accordance with the Scheduling Order. Each issue should be succinctly stated and sequentially numbered.

The issues to be tried will be limited to those included in this Joint Statement, unless they exceed the scope of issues set for hearing by the Commission. For good cause, the Judge may allow additional issues or amendment to listed issues after the filing date.

BRIEFS FROM PARTICIPANTS

Each participant shall submit a trial brief in accordance with the scheduling order. For each factual issue identified in the Joint Statement of Contested Issues, each participant shall reference relevant witnesses and cross-reference to exhibit numbers. For each legal issue identified, the participant will include a summary of the participant's position on said issue, citing to relevant precedent or other authorities. Where possible, each participant shall estimate the monetary value of each issue under its theory or position.

SUBMISSION OF EXHIBITS

All pre-filed exhibits will be marked with its permanent exhibit number. Each participant will adopt a prefix (up to three letters) and mark its exhibits with the prefix and sequential number, beginning with "1".

Written testimony submissions should be prefaced with a summary of the witness' testimony. Each participant who is sponsoring exhibits shall submit with its exhibits, an index to said exhibits. The index should include the number of the exhibit, a descriptive title, a column for indication of when the exhibit is

marked and [presumably] offered, and a column to reflect when it is received in evidence.

If a participant wishes to offer a document "by reference" or by asking the Judge to take "official notice," a copy of the specific portion of said document or other item of notice shall be provided contemporaneously with the offering, and in accordance with other directives concerning the offering and admission of exhibits.

For every exhibit a participant intends to offer into evidence, the sponsoring participant will be expected to have laid a proper foundation for its admission. Before asking the witness to read from the exhibit or discussing the particulars of the exhibit, the offer into evidence must be made. This will allow other participants to lodge objections, if any, before the contents of the exhibit are disclosed in the transcript of the proceeding.

While it is not a requirement, it would be appreciated if each participant would three-hole-punch and individually tab all hard copy exhibits that are submitted to the Judge.

ELECTRONIC VERSIONS OF TESTIMONY

In accordance with ongoing changes in Commission policy, all participants are expected to file with the Judge's law clerk or legal technician, via e-mail, electronic versions of all narrative testimony. It is not expected that electronic versions of documents, schedules, or charts will be filed.

This request replaces the former request that two courtesy copies of testimony be submitted to the Judge, contemporaneously with the filing of said testimony with the Secretary's office.

WITNESS EXAMINATION

Examination of witnesses will normally be limited to direct, cross, and re-direct. Cross-examination will be limited by the scope of the direct testimony of the

witness. Re-direct examination will be strictly limited to matters brought out on cross-examination.

Repetitive cross-examination among the participants will not be allowed. It is expected that the representative who will be examining a witness will be present for all of that witness' examination by other participants.

Participants on the same side of an issue should not expect to be allowed to cross-examine each other's witnesses on that issue.

Objections to a question put to a witness during cross-examination may only be made by the participant that sponsored that particular witness. If the sponsoring participant has more than one representative in the proceeding, said representative should identify his or her self as the designated representative for that witness. Objections should be succinctly stated. "Talking" objections will not be allowed.

Participants will not be allowed to ask for clarification of a question on cross-examination. That right is reserved for the witness and the Judge.

If the Judge has questions for a witness, follow-up examination concerning any question asked by the Judge will be allowed by the sponsoring participant.

CONDUCT AT HEARINGS

Participants are free to come and go during the course of the hearing, so long as there is no disruption of the proceedings or distraction to the witness or Judge. However, it is requested that the participants limit this activity as much as possible.

Reading of material extraneous to the hearing is not permitted by any person in the hearing room during the course of the hearing.

Counsel wishing to address opposing counsel must do so through the Judge. Cross-conversations between opposing counsel, witnesses, support and technical assistants, and others will not be permitted. If participants find it necessary

to confer among themselves, it is expected that said conferral will be quiet and not otherwise distracting.

When a witness is being sworn, all participants and attendees are expected to be seated and quiet.

Any document which counsel wishes to show to a witness must first be tendered to opposing counsel and the Judge.

All participants and attendees are expected to observe proper courtroom decorum at all times. Counsel will be expected to address witnesses and opposing counsel in a courteous and professional manner.

Counsel will be allowed a reasonable amount of time for argument on motions before a ruling is made. Once a ruling is made on a motion, no further discussion of the matter will be entertained.

WAIVER AND ENFORCEMENT OF THESE RULES

All proceedings will be conducted in accordance with these rules. If a participant believes that strict adherence to these rules would result in an injustice, said participant may request a modification of said rules.

If a participant believes that another participant has committed an infraction of these rules, it is the obligation of said participant to bring to the Judge's attention such infraction by proper objection. Failure to make a timely objection shall be considered a consent to a waiver of these rules.